



## Chesterfield County, Virginia

### Memorandum

**DATE:** AUGUST 22, 2007

**TO:** THE MEMBERS OF THE PLANNING COMMISSION

**FROM:** TARA A. McGEE, ASSISTANT COUNTY ATTORNEY

**SUBJECT:** PROPOSED ZONING ORDINANCE AMENDMENT RELATING TO  
PENALTIES FOR VIOLATIONS OF THE ORDINANCES REGARDING THE  
NUMBER OF UNRELATED PERSONS IN SINGLE FAMILY DWELLINGS

### Background

The 2007 General Assembly passed a bill increasing the penalty for zoning violations concerning the number of unrelated persons in single family dwellings. The proposed ordinance seeks to implement this change. The Board of Supervisors referred this matter to the Planning Commission for consideration during the legislative update at their June meeting.

### Proposal

Single family dwellings are a permitted use in all of the county's residential zoning districts and the code further provides that single family dwellings may be occupied by up to four unrelated persons. Currently, the code provides that zoning code violations are misdemeanors with violators subject to a fine of up to \$1,000 and additional violations punishable by a fine that can reach up to \$1,500.

The proposed amendment increases the penalty for violations relating to unrelated persons in a single family dwelling from a maximum of \$1,000 to a maximum of \$2,000 with additional violations subject to a fine of up to \$2,500.

Staff recommends that the proposed amendment be adopted after a public hearing.

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AN ORDINANCE TO AMEND THE CODE OF THE COUNTY  
OF CHESTERFIELD, 1997, AS AMENDED, BY AMENDING  
AND RE-ENACTING SECTION 19-5 RELATING TO PENALTIES FOR  
VIOLATION OF THE ORDINANCES REGARDING THE NUMBER OF  
UNRELATED PERSONS IN SINGLE FAMILY DWELLINGS

BE IT ORDAINED by the Board of Supervisors of Chesterfield County:

(1) *That Section 19-5 of the Code of the County of Chesterfield, 1997, as amended, is amended and re-enacted to read as follows:*

**Sec. 19-5. Enforcement.**

- (a) (1) *General enforcement duties of director of planning.* The director of planning shall enforce this chapter and he shall have the full cooperation of all other county officials in the enforcement of this chapter. Before granting a permit to construct, alter or use any building, structure or premises that may be affected by this chapter, the building official, upon receipt of an application for such permit, shall submit the application to the director who shall certify that the proposed construction, alteration or use of the building, structure or premises is or is not in violation of this chapter. If such proposed use, building or structure is in conflict with this chapter (including zoning or development approval), the building official shall refuse to issue a building or occupancy permit.
- (2) *Enforcement of conditions.* The director of planning shall administer and enforce conditions attached to zoning approvals, development approvals and substantial accord approvals for which a public hearing does not occur and he shall have the authority to: issue a written order to remedy any noncompliance with a condition; bring legal action, including injunction, abatement or other appropriate action, to insure compliance with such conditions; and require a guarantee, in a form satisfactory to the county attorney, and in an amount sufficient for and conditioned upon the construction of any physical improvements required by the condition, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the county, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any of the required occupancy or building permits.
- (b) *Penalties for violation; right of entry.*
  - (1) Any person who violates this chapter or fails to comply with any conditions of zoning and development approvals and substantial accord approvals for which a public hearing does not occur, other than those provisions set forth in section 19-6, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than \$10.00 and not more than \$1,000.00.
  - (2) Any person who violates an ordinance regarding the number of unrelated persons in a single family dwelling shall be punishable by a fine of up to \$2,000.

~~(2)~~(3)(a) For violations under (b)(1) above, ~~If~~ if the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10.00 nor more than \$1,000.00, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of not less than \$100.00 nor more than \$1,500.00.

~~(b)~~ For violations under (b)(2) above, if the violation is uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance within a time period established by the court. Failure to abate the violation within the specified time period shall be punishable by a fine of up to \$2,000 and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period, punishable by a fine of up to \$2,500.

~~(3)~~(4) In addition to the requirements and penalties specified above, the director of planning may invoke any other lawful procedure available to the county, such as injunction or abatement, as may be necessary to prevent, restrain, correct or abate any violation of this chapter.

~~(4)~~(5) The director of planning or his agents may enter upon or search any real estate or improvements thereon only after first obtaining a valid search warrant unless either:

- a. The entry or search is made after the property owner's knowing and intelligent consent;
- b. A violation of this chapter is in plain view; or
- c. A violation of this chapter occurs in the presence of the director.

~~(5)~~(6) If the director of planning determines that any person has violated this chapter or failed to comply with any condition of a zoning or development approval or of a substantial accord approval for which a public hearing does not occur, then he shall serve upon that person a notice to comply by either:

- a. Delivering the notice to the person by hand; or
- b. Mailing the notice by first class mail to the last known address of the person.

The notice shall set forth the nature of the violation or failure to comply. Upon failure of the person to remedy the violation, comply with the condition or receive an extension within ten days after the date of delivery or mailing of the notice, the person shall be subject to the penalties set forth above. With respect to violations or failures to comply involving portable signs or the parking or display of motor vehicles, the person shall remedy the violation or comply with the condition within 24 hours of service of the notice or receive an extension, or the person shall be subject to the penalties above.

(2) *That this ordinance shall become effective immediately upon adoption.*